IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY
WRIT PETITION NO : 1916 of 2005

Between:
V. Visweswara Rao S/o V. Koteswara Rao
R/o 12-2-460/26, Jeevan Kalyan Nagar Colony, Mehdipatnam, Hyderabad

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by Principal Secretary, Home Secretariat, Hyderabad
2 The Commissioner of Police, Hyderabad City, Basheer Bagh Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly in the nature of Writ of mandamus declaring the action of the respondents in not recommending the case of the petitioner for issuance of passport as arbitrary and unconstitutional and consequently direct the respondents to recommend the case of the petitioner to the Regional Passport officer, Hyderabad for issuance of passport.

Counsel for the Petitioner:MR.K.S.MURTHY

Counsel for the Respondents: GP FOR HOME

The Court at the admission stage made the following :

ORDER:

The petitioner applied to the Regional Passport Officer, Hyderabad, for issuance of a passport in the month of June, 2004. The application was processed and was forwarded to the respondents for verification. The 2nd respondent recommended to the passport authority not to grant any passport to the petitioner. The basis was that the petitioner was convicted for offence under Section 7 of the Prevention and Corruption Act in C.C.13 of 1995, on the file of the Special Judge for CBI cases, and was sentenced to undergo imprisonment for a period of six months and to pay a fine of Rs.1,000/-. The 2nd respondent took the view that the conviction suffered by the petitioner disables him to obtain a passport. Based upon the said recommendation, the passport authorities rejected the application of the petitioner through their communication, dated 17.01.2005. The petitioner challenges the action of the respondents in making recommendation to the passport authority not to grant passport to him.

The 2nd respondent filed a counter affidavit. It is stated that the petitioner was convicted for the offence referred to above and in that view of the matter, he cannot be said to be a man with clean record and their action is sought to be sustained.

Heard learned counsel for the petitioner and learned Government Pleader for Home.

The issuance of passports is governed by the provisions of the Passport Act, 1967 (for short 'the Act'). Section 6 thereof stipulated the conditions under which the passport can be refused to a citizen. One of the reasons on account of which the passport can be rejected is stipulated under Section 6(2)(e) of the Act, which reads as under:

> "That the applicant has, at any time during the period of five years immediately preceding the date of his application,

been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years."

The same discloses that the Parliament had treated only the conviction resulting in punishment for a period of two years and above as constituting a factor to disable a citizen from obtaining a passport. It is a matter on record that the petitioner has undergone punishment for a period of six months. The respondents cannot be permitted to expand the scope of Section 6(2)(e) of the Act. The necessity for the petitioner to approach this Court seeking relief against the police authorities arose on account of fact that the issuance of passport would depend upon the nature of recommendation made by the 2nd respondent.

In view of the facts stated above, the writ petition is allowed and it is directed that the 2nd respondent shall recommend the case of the petitioner for passport, unless there are any other reasons other than the one referred to above. This action shall be taken within a period of two weeks from the date of the receipt of this order. There shall be no order as to costs.

22.02.2005

Note: Issue C.C. in three days.

(B/o)

Jsu

To

1 The principal secretary, Government of Andhra Pradesh, Home Secretariat, Hyderabad

2 The Commissioner of Police, Hyderabad City, Basheer Bagh Hyderabad

3 2 CCs to the G.P. for Home, High Court Buildings, Hyderabad. (OUT)

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